IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 14092 of 2005

Between:

1 M.Tirupathaiah, S/o.Peda Venkataiah,
R/o.Balavenkatapuram Village, Ballipalli Gram Panchayat,
Kanigiri Mandal, Prakasham District, A.P.
2 M.Laxmana, S/o.Peda Venkataiah,
R/o.Balavenkatapuram Village, Ballipalli Gram Panchayat,
Kanigiri Mandal, Prakasham District, A.P.
3 M.Vengaiah, S/o.Kondaiah,
R/o.Balavenkatapuram Village, Ballipalli Gram Panchayat,
Kanigiri Mandal, Prakasham District, A.P.
4 M.Bala Nagaiah, S/o.Peda venkataiah,
R/o.Balavenkatapuram Village, Ballipalli Gram Panchayat,
Kanigiri Mandal, Prakasham District, A.P.

..... PETITIONERS

AND

1 The Mandal Revenue officer, Kanigiri Mandal, Kanigiri, Prakasham District.

A.P.
2 The District Collector, Prakasham District, Ongole, A.P.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction under Article 226 of the Constitution of India, particularly one in the nature of writ of Mandamus, declaring the action of the first respondent in interfering the drawing of the water from the bore well situated in survey No.99 of Balavenkatapuram Village of Ballipalli Gram Panchayath, Kanigiri Mandal, Prakasham District, A.P. by the petitioners herein pending representation dt.14-3-2005 with the second respondent as unjust, illegal, arbitrary and against the

principles of natural justice after calling for the records.

Counsel for the Petitioners: MR.NUTHALAPATI KRISHNA MURTHY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

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ORDER:

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This writ petition is filed by the petitioners to issue a writ of *mandamus* declaring the action of the first respondent in interfering with their drawing of water from the bore well situated in Sy.No.99 of Balavenkatapuram village of Ballipalli Gram Panchayath, Kanigiri Mandal, Prakasam District, pending consideration of the representation dated 14-03-2005 with the second respondent, as illegal and arbitrary.

2. It is submitted by the learned counsel for the petitioner that the petitioners were landless poor and have been eking out their livelihood as agricultural labourers and that the Government had assigned small extent of lands to them for the purpose of agriculture. The first petitioner was assigned an extent of Acs.3.08 cents in Sy.No.89-11 and Sy.No.89-13 of Ballipalli Village, Kanigiri Mandal, Prakasam District, on 21-06-2001. The second petitioner was assigned an extent of Acs.3.08 cents in Sy.No.89-10 and Sy.No.89-19 of Ballipalli Village on 21-06-2001. The third petitioner was assigned an extent of Ac.3.04 cents in Sy.No.121-2 of Ballipalli Village on 25-06-1997. The fourth petitioner was assigned an extent of Acs.2.54 cents in Sy.No.121/5 of Ballipalli village on 25-06-1997. The petitioners have got D.Form pattas for their respective lands. The learned counsel for the petitioners further submits that due to drought conditions, petitioners have dug a bore well in March, 2005 at the road margin which is located on the way to Balavenkatapuram Road from Kanigiri-Pamuru R&B Road for the agricultural operations. Thereafter they made a representation to the second respondent-District Collector, Prakasam District, on 14-03-2005, for granting permission to continue the utilization of the bore well in Sy.No.99 of Balavenkatapuram village. It is submitted that, pending consideration of the said representation, on 20-06-2005 the first respondent and his subordinates approached the petitioners and obstructed them from drawing the water through the said bore well without any authority.

3. Admittedly, as per the provisions of the Andhra Pradesh Water, Land and Trees Act, 2002 to dig the bore well the petitioners have to obtain necessary permission and have to pay necessary amounts and without doing so the petitioners are not entitled to dig the bore well. Further, as seen from the facts and circumstances of the case, the petitioners have dug the bore well outside their land and approached a wrong authority to consider their request for grant of permission. Therefore, I deem it appropriate to dispose of the writ petition, at the admission stage, with a direction to the petitioners to approach the M.R.O. concerned for grant of necessary permission to regularize the bore well, which was already in existence in Sy.No.99 of Balavenkatapuram village.

4 . Accordingly, the writ petition is disposed of permitting the petitioners to make necessary application before the first respondent-M.R.O., Kanigiri Mandal, within a period of two weeks from today. On such application being made, first respondent is directed to dispose of the same in accordance with law after giving opportunity to the petitioners, within a period of eight weeks thereafter. Till such time, the respondents shall not obstruct the petitioners from drawing the water through the said bore well.

5. The Writ Petition is disposed of accordingly. No order as to costs.

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ELIPE DHARMA RAO, J.

Dated 01-07-2005.

SKMR

..... REGISTRAR

Copy to:

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1 The Mandal Revenue officer, Kanigiri Mandal, Kanigiri, Prakasham District.

A.P.

2 The District Collector, Prakasham District, Ongole, A.P.

3 G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

2 CD copies

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